

February 4, 2022

Honorable Aaron Peskin
Honorable Connie Chan
Honorable Raphael Mandelman
Honorable Gordon Mar
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisors,

On behalf of several of the City's key business associations, representing small, medium, and large employers, we respectfully ask that the Rules Committee postpone consideration of File # 220022 - The Public Health Emergency Leave measure so that Supervisors can consider more input from the employer community.

The past two years have been difficult for everyone, and the local business community is no exception. We have seen many businesses shutter under the immense financial pressure brought on by the pandemic, and we are eager to get storefronts filled and to see a return of the vibrant downtown core and neighborhood business districts as they once were. The first step towards that end is to ensure employee safety, and that is why we supported and fully complied with the Public Health Emergency Leave legislation passed at the Board of Supervisors in the early stages of the COVID-19 pandemic, among other ordinances, which together offered flexibility and paid benefits to our employees during this crisis.

However, this ballot version of the Public Health Emergency Leave law, while similar to the Board's measures, differs in some very significant and impactful ways. We ask that you consider the following specific issues, most notably the AQI component, and get input from more stakeholders before moving forward with the measure in its current form:

- **Workplace Air Quality:** We need more time to review and consider the best approach to address workplace concerns around air quality. This is very concerning as written, especially as it could be interpreted that hospitality workers could fall under the 101 and higher category. As per the [City Performance Scorecard](#), in 2018 (last reported data), in San Francisco, there were 73 Days in the Orange (101-150, Unhealthy for Sensitive Groups) category, and 11 days in the Red (151 - 200 category), citywide. Requiring sick pay potentially be paid for all these days is a huge potential financial burden on our smaller employers, particularly our restaurants, and could result in more closures. Additionally, most offices and retail store locations' air quality already have high ventilation and filtration standards to ensure a healthy air work environment, especially with the

recent more stringent COVID and Cal/OHSHA requirements. In fact, the commercial systems in place in many of these businesses likely create an air quality that would surpass most residential systems. Our hospitality industry has also added in-house air purifiers and replaced filters in their HVAC systems to comply with requirements during the pandemic.

Moreover, we feel it should be Cal/OHSA's role to determine these standards as the agency that closely regulates workplace safety. At the very least, this measure should not apply to employees who work in locations who have put forth the effort and expense to address air quality in their establishments to ensure a healthy environment for their employees and customers.

- **Where and When:** It is well known that weather conditions and air quality can vary significantly throughout San Francisco. If the air quality is poor in one neighborhood, it may not be in another. We are very concerned that enforcement is a huge potential issue with this ordinance as written. Will some businesses have to provide emergency leave while their counterparts on a different hill a few minutes away will not? Additionally, the air quality may change during the day depending on various factors, even small shifts in wind direction. What happens if the air quality may be good in one neighborhood in the morning but then worsens later in the afternoon? This would be a substantial administrative and operational challenge that will have a disruptive impact on businesses across the City.
- **Exclusion Threshold:** As drafted, this proposal would now impact employers with 100 or more employees worldwide, which will affect numerous smaller restaurant and bar groups with locations in San Francisco that may have 2 or 3+ locations and which would put them over 100 total headcounts as many of our hospitality workers work part-time. As such, we feel more outreach is necessary to understand the potential operational impacts on all our employers in San Francisco.
- **Staffing Problems:** When this unpredictable and shifting air quality component is combined with the City's existing predictive scheduling requirements and labor agreements, many business locations may simply have to close if they cannot find employees to fill unfilled positions.
- **Employee Production of Documentation:** The legislation references that employees get recommendations from a medical professional advising them that they do not come to the workplace, but no requirement for employees to present those recommendations to their employers.
- **City Employee Exemption:** Many in the business community are also struggling to understand why the legislation's proposed new requirements only apply to them, and notably not to the City's own non-emergency and public health employees.

- **Overall Impact:** The new AQI component will add a significant and unpredictable additional burden to employers. Employers now have the existing 72 hours (9 days) of Sick Pay (that could be higher should employees carry it over and use it near the start of a year), and the State’s pending reinforcement of the ETS of up to 80 hours. If this new requirement is added, many businesses could see 72 + 80 + 80 hours of potential paid sick/health leave a year. That equates to 11% of a standard 40-hour workweek – more than half a day every week.

As this measure is going to the ballot, it is critical we get it right for the sake of our local businesses, our employees, and those that rely on those services. Specifically, we need to be careful about adding the AQI component, particularly when the State is likely to enact regulations, and we ask you to pause this so we can fully consider all the impacts and the potential unintended consequences.

In summary, given the broad swath of businesses that this legislation would apply to and the complex impact of a new AQI component, a much wider and deeper engagement with stakeholders in the business community is critical. This is simply not ready in its current form, and we stand ready to discuss and provide input to help navigate unintended negative consequences.

Thank you for your consideration.

Sincerely,

Rodney Fong
San Francisco Chamber of Commerce

Kriss Quigly
California Life Sciences

Laurie Thomas
Golden Gate Restaurant Association

Ben Bleiman
SF Bar Owner Alliance

Chris Wright
SF Partnership

Masood Samereie
San Francisco Council of District Merchants

Matt Regan
Bay Area Council

Sharky Laguana
American Car Rental Association

Rachel Michelin
California Retailers Association

Kevin Carroll
Hotel Council of San Francisco